IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY**

**WRIT PETITION No.16036 of 1995**

Between:

The Depot Manager, APSRTC, Hakimpet Depot, R.R.District.

**..... PETITIONER**

**AND**

1. Sri M.K.Shabuddin, E.No:3892, Ex-Conductor,
   C/o. Sri S.Dastagir, H.No.16-6-427/1, Osman ura,
   Hyderabad.

2. The Presiding Officer, Labour Court-III, Hyderabad.

**.....RESPONDENT**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of certiorari or any other appropriate writ or direction calling for the records relating to the award passed by the second respondent in I.D.No.210/92 dated 15-3-94 and the Notification published in G.O.Rt.No.1937 Women's Development Child Welfare & LABOUR (Lab-I) Department dated 20-7-94 and set aside the same as illegal and arbitrary.

Counsel for the Petitioner: MR.V.T.M.PRASAD

Counsel for the Respondent No.1: MR.A.K.JAYAPRAKASH RAO
Counsel for the Respondent No.2: G.P.for Labour

**The Court made the following:**

**ORDER:**

Heard Sri V.T.M. Prasad, learned Standing Counsel for the petitioner.

Andhra Pradesh State Road Transport Corporation (for short 'Corporation') represented by its Depot Manager, Hakimpet Depot, is the petitioner in this writ petition. The award, dated 15-3-1994, made in I.D.No.210 of 1992 is impugned in this writ petition.

In order to consider the issue as to whether the award under challenge suffers from any errors apparent on the face of the record, few relevant facts may have to be noticed.

On 27-5-1986, the 1st respondent-Workman was conducting bus service on Route No.11 and a surprise check was exercised at Stage No.13 followed by charge sheet. According to the petitioner, it was noticed that the workman failed to issue tickets to three passengers who boarded the bus at Thumkunta (Stage No.11) and they were found alighting at Stage No.13, though fare of Rs.0-50 Ps. was collected by him from each of the said passengers. It was also found that there was a closure of tray numbers. The other allegation is that workman failed to complete the tickets issue within one fare stage. These lapses amount to misconduct as per Regulation 28 (vi-a) and 26 (xxxii) of A.P.S.R.T.C. Employees (Conduct) Regulations, 1963.

That an Enquiry Officer was appointed to make an enquiry against the workman. The Enquiry Officer found the charges proved against the workman. The disciplinary

authority having accepted the enquiry report also came to the conclusion that the charges levelled against the workman were established and accordingly imposed punishment of removal from service. The workman was accordingly removed from service by order, dated 11-09-1986.

The Labour Court found that the domestic enquiry was vitiated and in order to prove the charges levelled against the workman permitted the Management of the Corporation to lead evidence. On behalf of the Corporation, the checking official was examined as M.W.1 and Exs.M-1 to M-6 were marked. In rebuttal workman got examined himself as W.W.1 and Exs.M-7 and M-8 were marked.

The Labour Court upon appreciation of both oral and documentary evidence available on record found that Ex.M-1 supports the plea of the workman that at the time of checking at Stage No.13, all the five passengers were issued with tickets. Accordingly, the Labour Court found that there is no basis for framing Charge No.1 against the workman. The Enquiry Officer simply relied on Ex.M-1 passenger's statement and Ex.M-2 spot explanation of the workman and held that Charge No.1 was proved. The Labour Court found that Ex.M-1 passenger's statement contains the thumb mark of only one passenger but not the statements of rest of the passengers. The Labour Court, accordingly, found that Charge No.3 automatically fall to ground since it is inextricably interlinked to Charge No.1. The Labour Court, however, found with regard to Charge No.2 that the tray numbers for the tickets of 40 paise, 50 paise, 75 paise and Re.1/- were not closed. The Labour Court, however, held that Charge No.2 is so trivial in its nature, since it did not result in any monetary loss to the Corporation.

The Labour Court having found that Charge Nos.1 and 3 were not proved against the workman and having found that Charge No.2 alone was held to be proved, exercised its discretion under Section 11-A of the Industrial Disputes Act and accordingly directed the reinstatement of the workman into service and awarded 50% of backwages.

In my considered opinion, the award passed by the Labour Court does not suffer from any error apparent on the face of the record. The Labour Court appreciated the evidence that was produced before the Court and found that Charges 1 and 3 were not proved. Charge No.2 is so trivial in its nature, which did not attract the punishment of removal from service. The Labour Court properly exercised its discretion under the Act, and accordingly, directed reinstatement of the workman into service with only 50% backwages. The punishment awarded by the Labour Court in withholding 50% of backwages meets the ends of justice. The punishment is proportionate to the proven misconduct, which did not result in any monetary loss to the Corporation.

For the aforesaid reasons, I find no merit in this writ petition and the same shall accordingly stand dismissed without any order as to costs.

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**(B. SUDERSHAN REDDY, J.)**

**Date:07-10-2004.**

**ES/PV**

To

1. The Presiding Officer, Labour Court-III, Hyderabad.

2. The Depot Manager, APSRTC, Hakimpet Depot, R.R. District.

3. Two C.Cs. to the Government Pleader for Labour, High Court

Buildings, Hyderabad(O.U.T).

3. Two C.D. copies.